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CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

June 2014 Grand Jury

UNITED STATES OF AMERICA,

Plaintiff,

v.

JASON RAY BAILEY (1),  
VICTOR ALEJANDRO

FERNANDEZ (2),  
JOHN GORDON BADEN (3),

Defendants.

Case No. 14CR0277-GPC

I N D I C T M E N T  
(Superseding)

Title 18, U.S.C., Sec. 1349 -  
Conspiracy to Commit Wire  
Fraud; Title 18, U.S.C.,  
Sec. 1030(a)(4)  
and (c)(3)(A) - Computer  
Hacking; Title 18, U.S.C.,  
Sec. 1028A(a)(1) - Aggravated  
Identity Theft; Title 18,  
U.S.C., Sec. 1343 - Wire  
Fraud; Title 18, U.S.C.,  
Secs. 981(a)(1)(C),  
982(a)(2)(B), 982(b), and  
1030(i), Title 21, U.S.C.,  
Sec. 853, and Title 28,  
U.S.C., Sec. 2461(c) -  
Criminal Forfeiture

The Grand Jury charges:

Count 1

(Conspiracy to Commit Wire Fraud)

Introductory Allegations

At all times relevant to this Indictment:

1. Company A was a national mortgage lender whose computer  
servers were located in Michigan. Mortgage brokers operating

1 throughout the United States accessed Company A's servers via the  
2 Internet. BlitzDocs was a computer program owned and managed by  
3 Xerox. The Xerox computer servers that supported BlitzDocs were  
4 located in Texas. BlitzDocs customers accessed the BlitzDocs  
5 computer application hosted on these servers via the Internet.

6       2. The term "personal identification information"  
7 (hereafter, "PII") referred to names, numbers, and information that  
8 could be used, alone or in conjunction with other information, to  
9 identify a specific individual. Examples of PII included, but were  
10 not limited to, names, social security numbers, dates of birth,  
11 official government-issued driver's license numbers, unique bank  
12 account numbers, unique brokerage account numbers, and tax  
13 identification numbers.

14       3. Company A used BlitzDocs to store and manage its  
15 customers' mortgage applications. These applications contained PII  
16 like the customers' names, dates of birth, driver's license  
17 numbers, bank account numbers, brokerage account numbers, and, in  
18 some cases, credit reports.

19       4. The term "log-in credentials" referred to a username and  
20 password that, when correctly combined, allowed a user to access  
21 electronic records that were otherwise protected and unavailable.

#### 22                   The Conspiracy

23       5. Beginning in or about July 2011, and continuing up to and  
24 including on or about August 18, 2013, within the Southern District  
25 of California and elsewhere, defendants JASON RAY BAILEY, VICTOR  
26 ALEJANDRO FERNANDEZ, and JOHN GORDON BADEN knowingly and  
27 intentionally conspired and agreed with each other, and other  
28 persons known and unknown to the grand jury, to devise a material

1 scheme and artifice to defraud and to obtain money and property by  
2 means of materially false and fraudulent pretenses,  
3 representations, and promises, and, for the purpose of executing  
4 such scheme and artifice, to transmit and cause to be transmitted  
5 by means of wire communications in interstate and foreign commerce,  
6 certain writings, signs, signals, pictures, and sounds, and said  
7 scheme and artifice affected a financial institution, contrary to  
8 Title 18, United States Code, Section 1343.

9 Manner and Means

10 6. The objects of the conspiracy were carried out, and to be  
11 carried out, in substance as follows:

12 a. Defendants BAILEY, FERNANDEZ, BADEN, and others,  
13 would obtain and share log-in credentials that enabled them to gain  
14 unauthorized access to Company A's electronic customer records and  
15 the BlitzDocs computer application that Company A used to manage  
16 these records.

17 b. Defendants BAILEY, FERNANDEZ, BADEN, and others,  
18 would use these log-in credentials without authorization to access  
19 BlitzDocs and Company A's electronic customer records and thereby  
20 steal customers' PII.

21 c. Defendants BAILEY, FERNANDEZ, BADEN, and others,  
22 would use this stolen PII, along with PII stolen from other victims  
23 and businesses, to defraud merchants and financial institutions,  
24 and for private financial gain.

25 d. Defendants BAILEY, FERNANDEZ, BADEN, and others,  
26 would obtain money and property by falsely representing to  
27 businesses and financial institutions that they were the authorized  
28 users of brokerage and bank accounts belonging to Company A



1 customers and other identity theft victims; by intentionally  
2 concealing that they did not have permission to access the  
3 brokerage and bank accounts belonging to Company A customers and  
4 other identity theft victims; and by falsely misrepresenting that  
5 they were Company A customers and other identity theft victims to  
6 merchants and financial institutions in order to secure lines of  
7 credit that would be billed to Company A customers and other  
8 identity theft victims.

9 All in violation of Title 18, United States Code, Section 1349.

10 Count 2

11 (Computer Hacking)

12 7. The allegations in Paragraphs 1 through 4, and 6 are  
13 incorporated and re-alleged by reference in this Count.

14 8. From January 18, 2013 to January 20, 2013, within the  
15 Southern District of California and elsewhere, defendants JASON RAY  
16 BAILEY, VICTOR ALEJANDRO FERNANDEZ, and JOHN GORDON BADEN knowingly  
17 and with intent to defraud accessed without authorization a  
18 protected computer that held the personal identification  
19 information of Company A customers and by means of such conduct  
20 furthered the intended fraud and obtained something of value,  
21 specifically, the personal identification information of Company A  
22 customers; in violation of Title 18, United States Code,  
23 Section 1030(a)(4) and (c)(3)(A).

24 Count 3

25 (Aggravated Identity Theft)

26 9. The allegations in Paragraphs 1 through 4, and 6 are  
27 incorporated and re-alleged by reference in this Count.

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1 means of identification of another person, to wit, A.L.'s name and  
2 brokerage account number ending in -4472; in violation of Title 18,  
3 United States Code, Section 1028A(a)(1).

4 Counts 6 - 8

5 (Wire Fraud)

6 15. The allegation in Paragraph 2 is incorporated and re-  
7 alleged by reference in this Count.

8 16. Beginning in or about September 2013, and continuing up  
9 to and including on or about May 18, 2014, within the Southern  
10 District of California and elsewhere, defendant JOHN GORDON BADEN  
11 knowingly devised and intended to devise, with the intent to  
12 defraud, a material scheme and artifice to defraud and to obtain  
13 money and property by means of materially false and fraudulent  
14 pretenses, representations and promises, and by intentional  
15 concealment and omission of material facts.

16 17. It was part of the scheme that defendant BADEN would use  
17 stolen PII to add himself, under a stolen identity, to existing  
18 Sam's Club membership accounts without the account holder's  
19 knowledge or consent.

20 18. It was further part of the scheme that, by gaining access  
21 to these Sam's Club's accounts, defendant BADEN obtained a line of  
22 credit for each account that he could then use to make unauthorized  
23 purchases at Sam's Club and Walmart stores.

24 19. For the purpose of executing the scheme described above,  
25 defendant BADEN caused to be transmitted by means of wire  
26 communication in interstate commerce, on or about the dates listed  
27 below in Column "A," the signals and sounds described below in  
28



Column "B," for each count, each transmission constituting a separate count:

<u>Count</u>	<u>Column A</u>	<u>Column B</u>
6	May 9, 2014	credit card charge for \$1,494.60 transmitted from a San Diego area Walmart to Walmart's and GE Capital's data centers.
7	May 9, 2014	credit card charge for \$3,260.11 transmitted from a San Diego area Walmart to Walmart's and GE Capital's data centers.
8	May 9, 2014	credit card charge for \$2,593.83 transmitted from a San Diego area Walmart to Walmart's and GE Capital's data centers.

All in violation of Title 18, United States Code, Section 1343.

#### FORFEITURE ALLEGATIONS

20. The allegations contained in Counts 1, 2, 6, 7, and 8 above are realleged herein and incorporated as a part hereof for purposes of seeking forfeiture of property of defendants JASON RAY BAILEY, VICTOR ALEJANDRO FERNANDEZ, and JOHN GORDON BADEN to the United States pursuant to Title 18, United States Code, Sections 981(a)(1)(C), 982(a)(2)(B), and 1030(i), and Title 28, United States Code, Section 2461(c).

21. Upon conviction of one or more of the offenses in Counts 1, 2, 6, 7, and 8, defendants JASON RAY BAILEY, VICTOR ALEJANDRO FERNANDEZ, and JOHN GORDON BADEN shall forfeit to the United States 1) any personal property that was used or intended to be used to commit or to facilitate the commission of the offense set forth in Count 2; and 2) any property, real or personal,

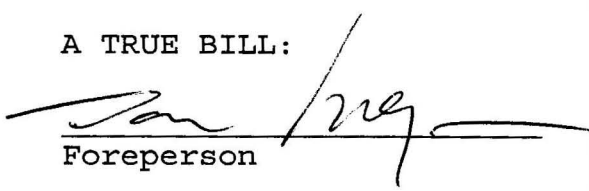
1 constituting or derived from proceeds obtained directly or  
2 indirectly as a result of the offenses set forth in Counts 1,2, and  
3 6 through 8.

4 22. If any of the properties described above, as a result of  
5 any act or omission of defendants JASON RAY BAILEY, VICTOR  
6 ALEJANDRO FERNANDEZ, and JOHN GORDON BADEN, cannot be located upon  
7 the exercise of due diligence; has been transferred or sold to, or  
8 deposited with, a third party; has been placed beyond the  
9 jurisdiction of the court; has been substantially diminished in  
10 value; or has been commingled with other property which cannot be  
11 divided without difficulty, the United States shall be entitled to  
12 forfeiture of substitute property up to the value of the property  
13 described above, pursuant to Title 21, United States Code,  
14 Section 853(p), as incorporated by Title 18, United States Code,  
15 Sections 982(b) and 1030(i).

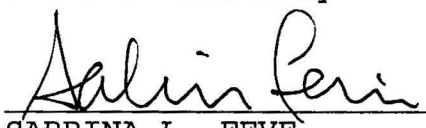
16 All pursuant to Title 18, United States Code,  
17 Sections 981(a)(1)(C), 982(a)(2)(B), 982(b), and 1030(i); and  
18 Title 28, United States Code, Section 2461(c).

19 DATED: July 2, 2014.

20 A TRUE BILL:

21   
22 Foreperson

23 LAURA E. DUFFY  
24 United States Attorney

25 By:   
26 SABRINA L. FEVE  
27 Assistant U.S. Attorney  
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